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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Yuji SUZUKI et al.

Serial No: 09/943,219

Confirmation No: 8883

Filed: August 29, 2001

For: COMMUNICATION TERMINAL

Art Unit: 2626

Examiner: Menberu, Beniyam

TRANSMITTAL LETTER

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Assistant Commissioner for Patents
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Dear Sir:

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Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: June 22, 2006

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THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APPEAL BRIEF

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

This is an appeal from the final Office Action mailed on January 25, 2006. A Notice of Appeal was mailed on April 25, 2006.

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TABLE OF CONTENTS

3	Real Party in Interest
4	Related Appeals and Interferences
5	Status of Claims
6	Status of Amendments
7	Summary of Claimed Subject Matter
10	The Grounds of Rejection to be Reviewed on Appeal
11	Argument
14	Claim Appendix
18	Evidence Appendix
19	Related Proceedings Appendix

REAL PARTY IN INTEREST

The real party in interest is Murata Kikai Kabushiki Kaisha, of Kyoto, Japan.

RELATED APPEALS AND INTERFERENCES

None

STATUS OF CLAIMS

Claims 1-18 are pending and are rejected.

STATUS OF AMENDMENTS

This appeal is in response to the final Office Action mailed on January 25, 2006. No amendments were filed subsequent to the final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 7, 8 and 10 are independent.

Claim 1

Claim 1 recites a communication terminal (facsimile machine 1) (page 3, paragraph [0010]; Fig. 1) with the following features:

a network control unit (NCU 110) for closing and releasing a circuit (telephone line L) (page 6, paragraph [0020]; Figs. 1 and 2);

an operating key (hook key 66) that causes NCU 110 to release telephone line L (page 5, paragraph [0016]; Fig. 1);

a recording unit 50, such as an electro photographic image printer, that records image data in a recording medium, such as recording paper (page 4, paragraph [0015]; Fig. 1); and

a control unit (MPU 10) which refuses an incoming call by maintaining telephone line L in a closed state with NCU 110 and invalidating the operation and input of hook key 66 when recording unit 50 fails to operate (pages 13-14, paragraph [0053]; Fig. 5, steps S41, S47, S48).

Claim 7

Claim 7 recites a communication terminal (facsimile machine 1) (page 3, paragraph [0010]; Fig. 1) with the following features:

a network control unit (NCU 110) for closing and releasing a circuit (telephone line L) (page 6, paragraph [0020]; Figs. 1 and 2);

an operating key (hook key 66) that causes NCU 110 to release telephone line L (page 5, paragraph [0016]; Fig. 1);

an informing unit, such as a display 70 for displaying available functions (page 19; paragraph [0076]);

a recording unit 50, such as an electro photographic image printer, that records image data in a recording medium, such as recording paper (page 4, paragraph [0015]; Fig. 1); and

a control unit (MPU 10) which refuses an incoming call by maintaining telephone line L in a closed state with NCU 110 and informing the functions capable of being used on the informing unit when recording unit 50 fails to operate (page 13, paragraph [0050]; Fig. 5, step S42).

Claim 8

Claim 8 recites a communication terminal (facsimile machine 1) (page 3, paragraph [0010]; Fig. 1) with the following features:

a network control unit (NCU 110) for closing and releasing a circuit (telephone line L) (page 6, paragraph [0020]; Figs. 1 and 2);

an operating key (hook key 66) that causes NCU 110 to release telephone line L (page 5, paragraph [0016]; Fig. 1);

a display 70 (page 5, paragraph [0017]; Fig. 1);

a recording unit 50, such as an electro photographic image printer, that records image data in a recording medium, such as recording paper (page 4, paragraph [0015]; Fig. 1); and

a control unit (MPU 10) which refuses an incoming call by maintaining telephone line L in a closed state with NCU 110 and displaying the functions capable of being used on display 70 when recording unit 50 fails to operate (page 13, paragraph [0050]; Fig. 5, step S42).

Claim 10

Claim 10 recites a communication terminal (facsimile machine 1) (page 3, paragraph [0010]; Fig. 1) with the following features:

a network control unit (NCU 110) for closing and releasing a circuit (telephone line L) (page 6, paragraph [0020]; Figs. 1 and 2);

an operating key (hook key 66) that causes NCU 110 to release telephone line L (page 5, paragraph [0016]; Fig. 1);

a speaker 102 (page 6, paragraph [0019]; Fig. 1);

a recording unit 50, such as an electro photographic image printer, that records image data in a recording medium, such as recording paper (page 4, paragraph [0015]; Fig. 1); and

a control unit (MPU 10) which refuses an incoming call by maintaining telephone line L in a closed state with NCU 110 and outputting a melody which indicates the closing of telephone line L from speaker 102 when recording unit 50 fails to operate (page 13, paragraph [0051]; Fig. 5, step S44).

THE GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claim 10 is anticipated under 35 USC 102(b) by Fukuda (JP 401318456A).
2. Whether claims 1 and 18 are obvious under 35 USC 103(a) over Fukuda in view of Shimizu (US 4,638,368).
3. Whether claims 2, 3, 5 and 6 are obvious under 35 USC 103(a) over Fukuda in view of Shimizu and Tokada (US 5,555,104).
4. Whether claim 11 is obvious under 35 USC 103(a) over Fukuda in view of Ikegami (US 6,414,759).
5. Whether claims 4 and 14 are obvious under 35 USC 103(a) over Fukuda in view of Shimizu and Ouchi (US 5,675,421).
6. Whether claims 7-9 are obvious under 35 USC 103(a) over Fukuda in view of Kobayashi (US 6,434,343).
7. Whether claims 15 and 16 are obvious under 35 USC 103(a) over Fukuda in view of Kobayashi and Ouchi.
8. Whether claim 12 is obvious under 35 USC 103(a) over Fukuda in view of Kobayashi and Fujimoto (US 6,701,095).
9. Whether claim 17 is obvious under 35 USC 103(a) over Fukuda in view of Ouchi.
10. Whether claim 13 is obvious under 35 USC 103(a) over Fukuda in view of Ikegami and Izumi (US 6,728,534).

ARGUMENT

1. *Claim 10 is not anticipated by Fukuda.*

Claim 10 includes the following limitation that is clearly not disclosed by Fukuda:

...a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit...in the case the recording unit fails to operate...

Thus, the present invention *maintains* an off-hook state (i.e. does not cut or release the line but “refuses an incoming call by *maintaining* the state of closing the circuit”) while the recording part is in a defective state. During this time, emphasizing the fact that the circuit is not cut or released, the operating key (hook key 66) that releases the circuit (telephone line L) is disabled. In addition, an appropriate melody is output from speaker 102, and display 70 displays the functions that can still be used in the defective state (i.e. fax transmission or telephone conversation).

Fukuda, by contrast, does not maintain the state of closing the circuit. Instead, it cuts the circuit (i.e. opens the circuit) and transfers the call to a machine capable of reception. In particular, as described in Fukuda, when a receiving facsimile equipment 200 is called by an originating facsimile equipment 260 but is in a “reception unable state”, due to an exhaustion of recording paper, a paper jam, or the like, alarm detecting circuit part 237 informs control part 201 of the defective state. Control part 201 actuates circuit control part 231 to temporarily cut (for approximately 500 ms) the circuit to PBX 250. At the same time, control part 201 starts up automatic transmission circuit 235 and calls another fax equipment 210 connected with PBX 250. By use of the transfer function of PBX 250, control part 201 secures a connection between equipment 200 and equipment 210, and equipment 200 is switched to equipment 210 for reception of data.

Thus, Fukuda cuts (opens) the line if a defective state of a recording part is detected and transfers reception to a facsimile equipment that is capable of data reception. In contrast, the present invention does not cut the line but, as recited in claim 10, refuses an incoming call by *maintaining* the state of closing the circuit while the recording part is in a defective state. In view of this clear difference, applicant submits that the Examiner may have mistakenly equated Fukuda's "cutting the circuit" with applicant's "closing the circuit", when in fact the terms have opposite meanings. Cutting the circuit means that the circuit is opened and placed in an on-hook state, whereas closing the circuit means that the circuit is closed and placed in an off-hook state.

Since Fukuda does not disclose each and every element of claim 10, it cannot anticipate claim 10, and the rejection under 35 USC 102(b) should be reversed.

2-10. Claims 1-9 and 11-18 are not rendered obvious over Fukuda in view of the ancillary references.

Each of claims 1-9 and 11-18 (claims 1, 7 and 8 are independent) contain the same limitation discussed above with respect to claim 10:

...a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit...in the case the recording unit fails to operate...

With respect to each of claims 1-9 and 11-18, the final Action relies on Fukuda as disclosing this limitation in the same manner as set forth with respect to claim 10. The ancillary references are cited as disclosing other features of the claims, but do not remedy the deficiencies of Fukuda with respect to the subject limitation. Shimizu is cited against claims 1 and 18 and teaches disabling copying and transmission keys when copying sheets or toner are absent. Todaka is cited against claims 2, 3, 5 and 6 and teaches displaying bits corresponding to unavailable function keys. Ikegami is cited against claim 11 and teaches a line disconnection notification. Ouchi is cited against claims 4 and 14-17 and teaches no

facsimile reception when there are no recording sheets or free memory. Kobayashi is cited against claims 7-9, 15 and 16 and teaches an informing unit that displays functions that can be used. Fujimoto is cited against claim 12 as teaching use of a voice message notification. Izumi is cited against claim 13 and teaches use of a holding melody.

Since none of the ancillary references remedy the deficiencies of Fukuda, with respect to its failure to teach maintaining a closed circuit when the recording unit fails to operate, claims 1-9 and 11-18 are not rendered obvious by Fukuda and the ancillary references. The rejections under 35 USC 103 set forth in the 2nd-10th grounds of rejection should be reversed.

Conclusion

For these reasons, the final rejections of claims 1-18 should be reversed and the application passed to allowance. Any fees due with this Appeal Brief may be charged to our deposit account number 50-1314.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: June 22, 2006

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CLAIM APPENDIX

1. A communication terminal comprising:
a network control unit for closing and releasing a circuit;
an operating key for making the network control unit release the circuit;
a recording unit for recording image data in a recording medium; and
a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit and invalidates the operation and input of the said operating key in the case the recording unit fails to operate.

2. A communication terminal according to claim 1 comprising:
an informing means for informing the fact that the operation of the said operating key is invalid.

3. A communication terminal according to claim 2 characterized in that the fact that the operation is invalid is informed when the operating key is operated.

4. A communication terminal according to claim 1, comprising:
a setting means for setting whether or not the circuit is to be closed when the recording unit fails to operate,

wherein the control unit makes the network control unit close the circuit according to a setting of the setting means in the case the recording unit fails to operate.

5. A communication terminal according to claim 3 characterized in that the informing means is a buzzer.

6. A communication terminal according to claim 3 characterized in that the informing means is the display.

7. A communication terminal comprising:
a network control unit for closing and releasing a circuit;
an operating key for making the network control unit release the circuit;

an informing unit;
a recording unit for recording image data in a recording medium; and
a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit and informs functions capable of being used on the informing unit, in the case the recording unit fails to operate.

8. A communication terminal comprising:
a network control unit for closing and releasing a circuit;
an operating key for making the network control unit release the circuit;
a display;
a recording unit for recording image data in a recording medium; and
a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit and displays functions capable of being used on the display, in the case the recording unit fails to operate.

9. A communication terminal according to claim 8 characterized in that a message, which indicates that a facsimile transmission or a telephone is capable of being carried out, is displayed.

10. A communication terminal comprising:
a network control unit for closing and releasing a circuit;
an operating key for making the network control unit release the circuit;
a speaker;
a recording unit for recording image data in a recording medium; and
a control unit which refuses an incoming call by maintaining the state of closing the circuit with the network control unit and outputs a melody which indicates the closing of the circuit, from the speaker, in the case the recording unit fails to operate.

11. A communication terminal according to claim 10, further comprising:
a setting means for setting whether or not the melody, which indicates the closing of the circuit, to be output,

wherein the control unit outputs from the speaker the said melody based on a setting of the setting means.

12. A communication terminal according to claim 7 characterized in that the functions capable of being used is informed in a voice message.

13. A communication terminal according to claim 11 characterized in that the circuit closing melody of which is different from the melody of the holding melody output when holding a telephone conversation, is output from the speaker.

14. A communication terminal according to claim 1 characterized in that the control unit maintains the state of closing the circuit with the network control unit when the recording unit fails to operate and a image memory is overflowed, comprising:

said image memory.

15. A communication terminal according to claim 7 characterized in that the control unit maintains the state of closing the circuit with the network control unit when the recording unit fails to operate and a image memory is overflowed, comprising:

said image memory.

16. A communication terminal according to claim 8 characterized in that the control unit maintains the state of closing the circuit with the network control unit when the recording unit fails to operate and a image memory is overflowed, comprising:

said image memory.

17. A communication terminal according to claim 10 characterized in that the control unit maintains the state of closing the circuit with the network control unit when the recording unit fails to operate and a image memory is overflowed, comprising:

said image memory.

18. A communication terminal according to claim 1 characterized in that the operating key for releasing the circuit is a hook key.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None